

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

E-DATA CORPORATION

Plaintiffs,

v.

CINEMARK USA, INC.,
REGAL ENTERTAINMENT GROUP,
THE THOMSON CORPORATION,
INTERNATIONAL DATA GROUP, INC.,
AMAZON.COM, INC.,
MOVIEGUIDE.COM, INC.,
TICKETMASTER CORPORATION,
MARCUS THEATRES CORPORATION,
FANDANGO, INC.,
FRANKLIN ELECTRONIC PUBLISHERS, INC.,
THE NEW YORK TIMES COMPANY,
HALLMARK CARDS, INC.,
AMERICAN GREETINGS CORPORATION, and
NEWSBANK, INC.

Defendants.

Court File No. 4:04cv256

COMPLAINT
(JURY TRIAL DEMANDED)

COMPLAINT

Plaintiff E-Data Corporation (“E-DATA”) as and for its Complaint against Cinemark USA, Inc., Regal Entertainment Group, The Thomson Corporation, International Data Group, Inc., Amazon.com, Inc., Movietickets.com, Inc., Ticketmaster, L.L.C., Marcus Theatres Corporation, Fandango, Inc., Franklin Electronic Publishers, Inc., The New York Times Company, Hallmark Cards, Inc., American Greetings Corporation, and Newsbank, Inc. (collectively, the “Defendants”) alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the United States Patent Laws, 35 U.S.C. § 271, *et. seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C.

§§ 1331 and 1338(a).

2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), (c) and 1400(b).

3. E-DATA is informed and believes that Defendants regularly conduct business in this Judicial District, have imported and import infringing products into this Judicial District (and elsewhere in the United States) and/or have used, use, have offered to sell, offer to sell, have sold and/or sell infringing products in this Judicial District (and elsewhere in the United States) and/or knowingly and actively have contributed and contribute to others' infringement and/or have induced and induce others to commit such acts of infringement in this Judicial District (and elsewhere in the United States).

4. E-DATA is informed and believes that Defendants have delivered products (including products hereinafter alleged to infringe E-DATA's patent) into this Judicial District after entering into purchase contracts with others in this Judicial District (and elsewhere in the United States), that Defendants have sought and obtained a benefit from sales of products (including products hereinafter alleged to infringe E-DATA's patent) in this Judicial District (and elsewhere in the United States) and that Defendants are subject to personal jurisdiction in this Judicial District.

PARTIES

5. Plaintiff E-Data Corporation is a corporation organized and existing under the laws of the State of Delaware and having a business address at 26 Harbor Park Drive, Port Washington, New York 11050.

6. E-DATA is informed and believes that Defendant CINEMARK USA, INC. (“CINEMARK”) is a corporation organized and existing under the laws of Delaware, that CINEMARK has an office at 3900 Dallas Parkway, Suite 500, Plano, TX 75093 and operates a website at www.cinemark.com, that CINEMARK has done business and is doing business (including acts hereinafter alleged to infringe E-DATA’s patent) in the State of Texas (including within this Judicial District at, *inter alia*, Cinemark Sherman 7, 2510 Texoma Parkway, Sherman, TX 75092).

7. E-DATA is informed and believes that CINEMARK has offered to sell and sold and offers to sell and sells (in this Judicial District at, *inter alia*, Cinemark Sherman 7, 2510 Texoma Parkway, Sherman, TX 75092 and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA’s patent.

8. E-DATA is informed and believes that Defendant REGAL ENTERTAINMENT GROUP (“REGAL”) is a corporation organized and existing under the laws of Delaware, that REGAL has an office at 7132 Regal Lane, Knoxville, Tennessee, 37918 and operates a website at www.regalcinemas.com, that REGAL has done business and is doing business (including acts hereinafter alleged to infringe E-DATA’s patent) in the State of Texas (including within this Judicial District at, *inter alia*, UA Lakepointe 10, 1600 S. Stemmons Fwy, Lewisville, TX 75067).

9. E-DATA is informed and believes that REGAL has offered to sell and sold and offers to sell and sells (in this Judicial District at, *inter alia*, UA Lakepointe 10, 1600 S. Stemmons Fwy, Lewisville, TX 75067 and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

10. E-DATA is informed and believes that Defendant THE THOMSON CORPORATION ("THOMSON") is a corporation organized and existing under the laws of Ontario, Canada, that THOMSON has an office at Metro Center, One Station Place, Stamford, Connecticut 06902 and operates a website at www.westlaw.com, that THOMSON has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

11. E-DATA is informed and believes that THOMSON has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

12. E-DATA is informed and believes that Defendant INTERNATIONAL DATA GROUP, INC. ("IDG") is a corporation organized and existing under the laws of the State of Massachusetts, that IDG has an office at 5 Speen St., Framingham, MA 01701, and operates a website at www.idc.com, that IDG has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

13. E-DATA is informed and believes that IDG has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

14. E-DATA is informed and believes that Defendant AMAZON.COM, INC. ("AMAZON.COM") is a corporation organized and existing under the laws of the State of Delaware, that AMAZON.COM has an office at 1200 12th Avenue South, Suite 1200, Seattle, Washington 98144-2734, and operates a website at www.amazon.com, that AMAZON.COM has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

15. E-DATA is informed and believes that AMAZON.COM has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

16. E-DATA is informed and believes that Defendant MOVIETICKETS.COM, INC. ("MOVIETICKETS.COM") is a corporation organized and existing under the laws of the State of Delaware, that MOVIETICKETS.COM has an office at 2255 Glades Road., Suite 221A, Boca Raton, FL, 33431, and operates a website at www.movietickets.com, that MOVIETICKETS.COM has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

17. E-DATA is informed and believes that MOVIETICKETS.COM has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States),

directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

18. E-DATA is informed and believes that Defendant TICKETMASTER CORPORATION ("TICKETMASTER") is a corporation organized and existing under the laws of the State of Delaware, that TICKETMASTER has an office at 8800 Sunset Blvd., West Hollywood, CA 90069, and operates a website at www.ticketmaster.com, that TICKETMASTER has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

19. E-DATA is informed and believes that TICKETMASTER has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

20. E-DATA is informed and believes that Defendant MARCUS THEATRES CORPORATION ("MARCUS") is a corporation organized and existing under the laws of the State of Wisconsin, that MARCUS has an office at 100 E. Wisconsin Ave., Suite 2000, Milwaukee, WI 53202, and operates a website at www.marcustheatres.com.

21. E-DATA is informed and believes that MARCUS has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

22. E-DATA is informed and believes that Defendant FANDANGO, INC. ("FANDANGO") is a corporation organized and existing under the laws of the State of Delaware,

that FANDANGO has an office at 12200 W. Olympic Blvd., Suite 150, Los Angeles, CA 90064, and operates a website at www.fandango.com, that FANDANGO has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

23. E-DATA is informed and believes that FANDANGO has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

24. E-DATA is informed and believes that Defendant FRANKLIN ELECTRONIC PUBLISHERS, INC. ("FRANKLIN") is a corporation organized and existing under the laws of the State of Pennsylvania, that FRANKLIN has an office at One Franklin Plaza, Burlington, NJ 08016-4907, and operates a website at www.franklin.com, that FRANKLIN has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

25. E-DATA is informed and believes that FRANKLIN has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

26. E-DATA is informed and believes that Defendant THE NEW YORK TIMES COMPANY ("NEW YORK TIMES") is a corporation organized and existing under the laws of the State of New York, that NEW YORK TIMES has an office at 229 W. 43rd St., New York, NY 10036, and operates a website at www.nytimes.com, that NEW YORK TIMES has done business

and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

27. E-DATA is informed and believes that NEW YORK TIMES has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

28. E-DATA is informed and believes that Defendant HALLMARK CARDS, INC. ("HALLMARK") is a corporation organized and existing under the laws of the State of Missouri, that HALLMARK has an office at 2501 McGee St., Kansas City MO 64108, and operates a website at www.hallmark.com, that HALLMARK has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

29. E-DATA is informed and believes that HALLMARK has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

30. E-DATA is informed and believes that Defendant AMERICAN GREETINGS CORPORATION ("AMERICAN GREETINGS") is a corporation organized and existing under the laws of the State of Ohio, that AMERICAN GREETINGS has an office at One American Rd., Cleveland, OH 44144, and operates a website at www.americangreetings.com, that AMERICAN GREETINGS has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

31. E-DATA is informed and believes that AMERICAN GREETINGS has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

32. E-DATA is informed and believes that Defendant NEWSBANK, INC. ("NEWSBANK") is a corporation organized and existing under the laws of the State of Delaware, that NEWSBANK has an office at 5020 Tamiami Trail North, Suite #110, Naples, FL 34103, and operates a website at www.newslibrary.com, that NEWSBANK has done business and is doing business (including acts hereinafter alleged to infringe E-DATA's patent) in the State of Texas (including within this Judicial District).

33. E-DATA is informed and believes that NEWSBANK has offered to sell and sold and offers to sell and sells (in this Judicial District and elsewhere in the United States), directly and/or indirectly (through, *inter alia*, the internet), articles via a system, process and method hereinafter alleged to infringe E-DATA's patent.

COUNT: PATENT INFRINGEMENT

34. E-DATA realleges and incorporates by reference the allegations of paragraphs 1-33.

35. E-DATA is the owner by assignment of all right, title and interest in and to U.S. Patent No. 4,528,643, SYSTEM FOR REPRODUCING INFORMATION IN MATERIAL OBJECTS AT A POINT OF SALE LOCATION, issued July 9, 1985 (the " '643 patent").

36. E-DATA is informed and believes that Defendants have at times after issuance of the '643 patent and without authorization from E-DATA, used, offered for sale and/or sold in the

United States articles via a system (including, but not limited to, the electronic delivery, storage and printout of photographic images), covered by the claimed inventions of the '643 patent, and/or that Defendants have knowing and actively induced others to commit such acts of direct infringement.

37. E-DATA has suffered damages as a result of Defendants' infringement.
38. E-DATA is informed and believes that Defendants' infringement was willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court:

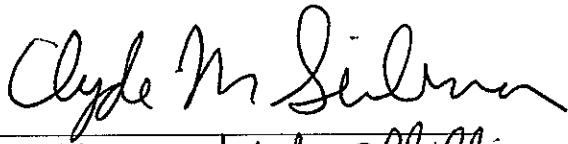
- A. Enter judgment that Defendants have infringed the '643 patent;
- B. Enter judgment that Defendants have induced infringement of the '643 patent;
- C. Enter judgment that Defendants account and pay actual damages (but no less than a reasonable royalty) to E-DATA for Defendants' infringement of the '643 patent;
- E. Award Plaintiff increased damages and attorney fees pursuant to 35 U.S.C. §§ 284 and 285;
- F. Award Plaintiff its interest and costs incurred in this action; and
- E. Grant Plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a jury trial on all issues triable of right by jury.

Dated July 16, 2004

Respectfully submitted,

By: 
Clyde M. Siebman *b-1 for Phillips*
State Bar No. 18341600 *With Permission*
SIEBMAN, REYNOLDS & BURG, L.L.P.
421 North Crockett
Sherman, Texas 75090
(903) 870-0070
(903) 870-0066

Raymond M. Galasso* (State Bar No. 24026663)
Christopher S. Walton* (CA State Bar No. 193611)
SIMON, GALASSO & FRANTZ, PLC
115 Wild Basin Road, Suite 107
Austin, Texas 78746
(512) 306-8533
(512) 306-8559

* Not yet admitted.

Attorneys for Plaintiff
E-DATA CORPORATION